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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,536	03/11/2004	Jeffrey M. Griffin	BGN1348	4383
7590	04/04/2006		EXAMINER	
Sean A. Kaufhold P.O. Box 131447 Carlsbad, CA 92013			POLLICOFF, STEVEN B	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/797,536	<b>Applicant(s)</b> GRIFFIN ET AL.	
	<b>Examiner</b> Steven B. Pollicoff	<b>Art Unit</b> 3728	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/11/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 11 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 11 seems to be a duplicate of claim 7.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. Claims 1,2,6,7 and 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnett (US Pat No 2,697,460) in view of Polk (US Pat No 4,416,372).

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With respect to claim 1, the saw blades recited in the claims are being treated as merely modifying the intended use phrase of claim 1 (and claim 16 below) and thus not requiring a saw blade.

With respect to claims 1 and 2, Barnett discloses a container assembly comprising a panel (Barnett Fig 2 reference number 20) having a generally rectangular shape and having a first edge (Fig 1 reference number 47 on the lower right side of the figure), a second edge (reference number 47 on the lower left side of the figure), a third edge and a fourth edge, said first and second edges being positioned opposite of each other. Barnett also discloses a first housing having a bottom side (Fig 2 reference letter G), a top side, an inner side, an outer side and a pair of lateral sides, a juncture of said inner and bottom sides of said first housing being hingedly coupled (Fig 2 reference number 47) to said first edge; a second housing (Fig 2 reference letter F) having a bottom side, a top side, a inner side, an outer side and a pair of lateral sides, a juncture of said inner and bottom sides of said second housing being hingedly coupled (Fig 2 reference number 47) to said second edge, wherein each of said inner sides of said first and second housings may be abutted against said panel such that said top sides of said first and second housings are directed toward each other and a closed position is defined (Fig 1 generally). Barnett does not disclose that the top sides of the first and second housings have a plurality of slots or that they are oriented perpendicular to the lateral sides of each housing. However, Polk discloses a container assembly housing (Polk Fig 1) having a plurality of slots (Figs 3 and 4 reference number 36) oriented perpendicular to the lateral sides for storing circular objects/blades. Therefore, it would

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have been obvious to one of ordinary skill in the art at the time of the invention to modify the housings of Barnett to include a plurality of slots perpendicular to the lateral sides, as taught by Polk, for the purpose of ensuring that the circular objects/blades placed within the slots are not misaligned (Polk column 2, lines 22-27).

With respect to claim 6, Barnett as modified by Polk discloses that the inner surfaces of the first and second housings are spaced from each other when the first and second housings are in said closed position (Barnett Fig 1 at side legs 24). When the Barnett housings are in the closed position the width of side legs provides the space between the housings.

With respect to claims 7, 10 and 11, while Barnett as modified above does not disclose that the slots in the housings having depth such that the circular objects/blades extend between 0.25 inches and 1.50 inches away from a respective top side, it would have been an obvious matter of design choice to one of ordinary skill in the art at the time of the invention to provide an appropriately sized depth clearance for the circular object/blades when the two housings are in a closed position since such a modification would involve a mere change in the size of a component. Motivation for the modification comes from a desire to prevent the circular object/blades of the first housing from being damaged by the second housing and its blades. It seems that providing an appropriate depth for the slot would also be desirable to prevent either of the housings from being damaged by circular objects/blades not appropriately situated in the slots. Additionally, a change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA1955).

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With respect to claims 12 and 14, Barnett discloses a handle being attached to the outer surface of the first housing (Barnett Fig 1 reference letter E at reference number 50 when the assembly is in a closed position)

With respect to claims 13 and 15, Barnett discloses a latch assembly being attached to the first and second housings for selectively securing the first and second housings in the closed position (Barnett Fig 1 reference number 140).

4. Claims 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barnett (US Pat No 2,697,460) in view of Polk (US Pat No 4,416,372), as applied to claim 1 above and further in view of Hugg (US Pat No 5,782,356).

With respect to claim 3, Barnett as modified above does not disclose that each of the slots in said first and second housings are angled from said inner side to said outer side as each of said slots extends toward said bottom side. However, Hugg discloses a housing for storing and transporting fragile circular objects/blades having angled slots. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the slots of the Barnett invention as modified above, to be angled, as taught by Hugg for the purpose of minimizing or preventing the moving or rattling of the circular object/blade during loading or transport (Hugg column 2, lines 24-31).

5. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnett (US Pat No 2,697,460) in view of Polk (US Pat No 4,416,372), as applied to claims 1 and 2 above and further in view of Schumann (US Pat No 5,193,680).

With respect to claim 4, Barnett as modified above does not disclose that the first and second housings have apertures extending into the outer side and outwardly

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through the inner side of the housings, the apertures being generally centrally located in the outer and inner sides such that the apertures extends through each of the slots in the first and second housings. Barnett as modified above also does not disclose openings extending through each of the circular objects/blades aligned to correspond to the apertures and where a pair of rods are removably extendable through the apertures and through aligned ones of the openings such that the circular objects/blades are releasably secured in the slots. However, Schumann discloses a housing (Fig 3 reference number 24) having apertures (Schumann Fig 3 reference number 57) extending into the outer side (reference number 32) and outwardly through the inner side of the housings, the apertures being generally centrally located in the outer and inner sides such that the apertures extends through each of the slots (Fig 3 reference number 38) in the housing. Schumann also discloses that openings extend through metal rolls (Fig 3 reference number 22) aligned to correspond to the apertures and a rod (Fig 3 reference number 86) is removably extendable through the apertures and through the aligned openings such that the metal rolls are releasably secured in the slots. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Barnett housings to include centrally located apertures for a rod to releasably secure circular objects/blades, as taught by Schumann, for the purpose of preventing any of the metal rolls from lifting out of a respective compartment (column 6, lines 42-49).

With respect to claim 5, Schumann discloses that the rod (Fig 8 reference number 86) has a first end having a head (reference number 88) attached thereto and a

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second end being threaded (column 6, lines 42-43), wherein the head may be abutted against the outer side (Fig 2 generally at 86) such that the second end is positioned adjacent to a corresponding inner side and where the inner side has a depression therein (Fig 3 reference numbers 62 and 46; see also column 5, lines 31-37 for reference to the recess/depression, reference number 55 and 54, corresponding to reference number 62 and 46, respectively). Schumann also discloses that insert 46 and 62 are substantially similar in shape except that insert 62 has only one recess 55 (column 5, lines 31-37). Thus, insert 62 is replaceable by an insert (like insert 46) having recesses on both faces of the insert (Fig 6, reference number 54) without changing the function or spirit of the invention. In doing so, the depression is not only positioned such that the aperture extends through the depression, but the replacement insert allows for a nut to be positionable in the depression and threadably coupled to the first end of the rod.

6. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnett (US Pat No 2,697,460) in view of Polk (US Pat No 4,416,372) as applied to claims 1,2,6 and 7 above and further in view of Fitzsimmons et al., (US Pat No 5,632,374).

With respect to claims 8 and 9, Barnett as modified above does not disclose that the slots of the first housing are staggered with respect to the slots of the second housing when the top sides are facing each other. However, Fitzsimmons discloses a holder that staggers circular objects/blades to offset them and permit better access and easier removal without the circular objects/blades contacting one another (see



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Fitzsimmons column 2, lines 3-5). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the slot configuration of Barnett as modified above to include a staggered configuration, as taught by Fitzsimmons, for the purpose of offsetting the circular objects/blades so that there is no contact between adjacent circular objects/blades when the assembly is in the closed position.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barnett (US Pat No 2,697,460) in view of (Polk US Pat No 4,416,372), Hugg (US Pat No 5,782,356), Schumann (US Pat No 5,193,680) and Fitzsimmons et al., (US Pat No 5,632,374).

With respect to claim 16, Barnett discloses a container assembly comprising a panel (Barnett Fig 2 reference number 20) having a generally rectangular shape and having a first edge (Fig 1 reference number 47 on the lower right side of the figure), a second edge (reference number 47 on the lower left side of the figure), a third edge and a fourth edge, said first and second edges being positioned opposite of each other. Barnett also discloses a first housing having a bottom side (Fig 2 reference letter G), a top side, an inner side, an outer side and a pair of lateral sides, a juncture of said inner and bottom sides of said first housing being hingedly coupled (Fig 2 reference number 47) to said first edge; a second housing (Fig 2 reference letter F) having a bottom side, a top side, a inner side, an outer side and a pair of lateral sides, a juncture of said inner and bottom sides of said second housing being hingedly coupled (Fig 2 reference number 47) to said second edge, wherein each of said inner sides of said first and

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second housings may be abutted against said panel such that said top sides of said first and second housings are directed toward each other and a closed position is defined (Fig 1 generally). Barnett does not disclose that the top sides of the first and second housings have a plurality of slots or that they are oriented perpendicular to the lateral sides of each housing. However, Polk discloses a container assembly housing (Polk Fig 1) having a plurality of slots (Figs 3 and 4 reference number 36) oriented perpendicular to the lateral sides for storing circular objects/blades. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the housings of Barnett to include a plurality of slots perpendicular to the lateral sides for storing a plurality of circular objects/blades, as taught by Polk, for the purpose of ensuring that the circular objects/blades placed within the slots are not misaligned (Polk column 2, lines 22-27).

Barnett as modified by Polk discloses that the inner surfaces of the first and second housings are spaced from each other when the first and second housings are in said closed position (Barnett Fig 1 at side legs 24). When the Barnett housings are in the closed position the width of side legs provides the space between the housings.

While Barnett as modified above does not disclose that the slots in the housings having depth such that the circular objects/blades extend between 0.25 inches and 1.50 inches away from a respective top side, it would have been an obvious matter of design choice to one of ordinary skill in the art at the time of the invention to provide an appropriately sized depth clearance for the circular objects/blades when the two housings are in a closed position since such a modification would involve a mere

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change in the size of a component. Motivation for the modification comes from a desire to prevent the circular objects/blades of the first housing from being damaged by the second housing and its circular objects/blades. It seems that providing an appropriate depth for the slot would also be desirable to prevent either of the housings from being damaged by circular objects/blades not appropriately situated in the slots. Additionally, a change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA1955).

Barnett discloses a handle being attached to the outer surface of the first housing (Barnett Fig 1 reference letter E at reference number 50 when the assembly is in a closed position). Barnett also discloses a latch assembly being attached to the first and second housings for selectively securing the first and second housings in the closed position (Barnett Fig 1 reference number 140).

Barnett as modified by Polk does not disclose that each of the slots in said first and second housings are angled from said inner side to said outer side as each of said slots extends toward said bottom side. However, Hugg discloses a housing for storing and transporting fragile circular objects/blades having angled slots. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the slots of the Barnett invention as modified above, to be angled, as taught by Hugg for the purpose of minimizing or preventing the moving or rattling of the circular object/blade during loading or transport (Hugg column 2, lines 24-31).

Barnett as modified by Polk does not disclose that the first and second housings have apertures extending into the outer side and outwardly through the inner side of the

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housings, the apertures being generally centrally located in the outer and inner sides such that the apertures extends through each of the slots in the first and second housings. Barnett as modified above also does not disclose openings extending through each of the circular objects/blades aligned to correspond to the apertures and where a pair of rods are removably extendable through the apertures and through aligned ones of the openings such that the circular objects/ blades are releasably secured in the slots. However, Schumann discloses a housing (Fig 3 reference number 24) having apertures (Schumann Fig 3 reference number 57) extending into the outer side (reference number 32) and outwardly through the inner side of the housings, the apertures being generally centrally located in the outer and inner sides such that the apertures extends through each of the slots (Fig 3 reference number 38) in the housing. Schumann also discloses that openings extend through metal rolls (Fig 3 reference number 22) aligned to correspond to the apertures and a rod (Fig 3 reference number 86) is removably extendable through the apertures and through the aligned openings such that the metal rolls are releasably secured in the slots. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Barnett housings to include centrally located apertures for a rod to releasably secure circular objects/blades, as taught by Schumann, for the purpose of preventing any of the metal rolls from lifting out of a respective compartment (column 6, lines 42-49).

Schumann discloses that the rod (Fig 8 reference number 86) has a first end having a head (reference number 88) attached thereto and a second end being threaded (column 6, lines 42-43), wherein the head may be abutted against the outer

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side (Fig 2 generally at 86) such that the second end is positioned adjacent to a corresponding inner side and where the inner side has a depression therein (Fig 3 reference numbers 62 and 46; see also column 5, lines 31-37 for reference to the recess/depression, reference number 55 and 54, corresponding to reference number 62 and 46, respectively). Schumann also discloses that insert 46 and 62 are substantially similar in shape except that insert 62 has only one recess 55 (column 5, lines 31-37). Thus, insert 62 is replaceable by an insert (like insert 46) having recesses on both faces of the insert (Fig 6, reference number 54) without changing the function or spirit of the invention. In doing so, the depression is not only positioned such that the aperture extends through the depression, but the replacement insert allows for a nut to be positionable in the depression and threadably coupled to the first end of the rod.

Barnett as modified by Polk does not disclose that the slots of the first housing are staggered with respect to the slots of the second housing when the top sides are facing each other. However, Fitzsimmons discloses a holder that staggers circular objects/blades to offset them and permit better access and easier removal without the circular objects/blades contacting one another (see Fitzsimmons column 2, lines 3-5). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the slot configuration of Barnett as modified above to include a staggered configuration, as taught by Fitzsimmons, for the purpose of offsetting the circular objects/blades so that there is no contact between adjacent circular objects/blades when the assembly is in the closed position.

### ***Conclusion***

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8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hasuike (US Pat No 4,819,798) discloses a container with a plurality of angled slots disposed within two housings. Mitchell (US Pat No 2,822,081) discloses a housing with an aperture through the middle and a rod supporting contents disposed within the housing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Pollicoff whose telephone number is (571)272-7818. The examiner can normally be reached on M-F: 7:30A.M.-4:00P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SBP 3/31/06

  
**JILA M. MOHANDESI**  
**PRIMARY EXAMINER**